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GOVERNMENT GAZETTE

BOLETIM OFICIAL

GOVERNMENT OF GOA, DAMAN
AND DIU

Secretariat

Finance Department

Notification

FD/F. III/2-36/part/3035/66

In exercise of the powers conferred by sub-section (2) of section 10 of the Goa, Daman and Diu Sales Tax Act, 1964 read with the Government of India, Ministry of Home Affairs, notification No. 7/3/65-UTL dated 14th April, 1965, the Administrator is hereby pleased to amend the Second Schedule to the said Act, as follows:—

In the said Second Schedule for entry 12 the following may be substituted:—

«Entry 12 — Fresh milk, whole or separated and milk products made exclusively out of milk, without addition or admixture of any other ingredient».

V. S. Srinivasagopalan, Dy. Secretary (Finance).
Panjim, 31st January, 1966.

Notification

FD/F. III/2-41/part/3045/66.

In exercise of the powers conferred by sub-section (3) of section 5 of the Goa, Daman and Diu Entertainment Tax Act, 1964, the Government is hereby pleased to exempt all film shows from the Socialist Countries under the style of «Festival of Films from the Socialist World», conducted by Dr. Eduardo Dias, Editor of 'Luta', at the various cinema theatres in Goa, during the period covering 4th to 14th January, 1966.

By order and in the name of the Administrator of Goa, Daman and Diu.

V. S. Srinivasagopalan, Deputy Secretary (Finance).

Panjim, 31st January, 1966.

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/106/66

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

The Court Fees (Goa, Daman and Diu Amendment) Bill, 1966

A Bill to amend the Court Fees Act, 1870 in its application to the Union Territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Seventeenth year of the Republic of India as follows:—

1. Short title, extent and commencement:

(1) This Act may be called the Court Fees (Goa, Daman and Diu Amendment) Act, 1966.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government of Goa, Daman and Diu may, by notification in the Official Gazette, appoint.

2. For section 13 of the Court Fees Act, 1870 (hereinafter referred to as the principal Act), the following shall be substituted, namely:—

«13. Refund in cases of remand: (1) Where a plaint or memorandum of appeal which has been rejected by the lower Court is ordered to be received, or where a suit is remanded in appeal for a fresh decision by the lower Court, the Court making the order or remanding the appeal shall, where the whole decree is reversed and the suit is remanded, and may in other cases direct the refund to the appellant of the full amount of fee paid on the memorandum of appeal, and, if on second appeal the case is remanded to the trial Court, also on the memorandum of appeal in the first appellate Court.

(2) Where an appeal is remanded in second appeal for a fresh decision by the lower appellate Court the

Judicial Commissioner's Court constituted under the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation 1963 when remanding the appeal may direct the refund to the appellant of the full amount of fee paid on the memorandum of second appeal.

(3) Notwithstanding anything contained in sub-sections (1) and (2) if the order of remand does not cover the whole of the subject matter of the suit the refund shall not extend to more than so much of the fee as would have been originally payable on that part of the subject matter in respect of which the suit has been remanded:

Provided that no refund shall be ordered if the remand was occasioned by the fault of the person who would otherwise be entitled to a refund».

3. After section 15 of the principal Act the following sections shall be inserted namely:—

«16. Refund in cases of delay in presentation of plaint, etc.:

(1) Where a plaint or memorandum of appeal is rejected on the ground of delay in its presentation, or where the fee paid on a plaint or memorandum of appeal is deficient and the deficiency is not made good within the time allowed by law or granted by the Court, or the delay in payment of the deficit fee is not condoned and the plaint or memorandum of appeal is consequently rejected, the Court shall direct the refund to the plaintiff or the appellant, of the fee paid on the plaint or memorandum of appeal which has been rejected.

(2) Where a memorandum of appeal is rejected on the ground that it was not presented within the time allowed by the law of limitation, one-half of the fee shall be refunded.

16.A. Refund on settlement before hearing:

Wherever by agreement of parties:—

- (i) any suit is dismissed as settled out of Court before any evidence has been recorded on the merits of the claim; or
- (ii) any suit is compromised ending in a compromise decree before any evidence has been recorded on the merits of the claim; or
- (iii) any appeal is disposed of before the commencement of hearing of such appeal:

half the amount of all fees paid in respect of the claim or claims in the suit or appeal shall be ordered by the Court to be refunded to the parties by whom the same have been respectively paid.

Explanation (1): The expression "merits of the claim" refers to all matters which arise for determination in the suit not being matters relating to the frame of the suit, misjoinder of parties and cause of action, the jurisdiction of the court to entertain or try the suit or the fee payable, but includes matters arising on pleas of res-judicata, limitation and the like.

Explanation (2): The expression "hearing of the appeal" includes the "vista" of a case filed in the appellate court.

16.B. Refund of fee paid by mistake or inadvertence:— Any fee paid by mistake or inadvertence shall be ordered to be refunded.

16.C. Procedure for obtaining refund when a person becomes entitled to a refund of court fees, the court shall grant a certificate authorising him to receive back from the Collector the amount specified therein, calculated according to the provisions of this Act».

Statement of Objects and Reasons

Under the existing law court fees once they are paid are not refunded even if the parties compromise the case without any time of the court being taken up in hearing the case or the appeal. This sometimes stands in the way of parties settling their disputes out of court. Further as the court fee is essentially paid as a charge for services rendered it is felt that when very little time of the court is taken up the parties should be entitled to a refund of the fees that they have paid.

Similarly provision is being made for the refund of court fees when a case has remanded any appeal or when any fee has been paid by mistake or inadvertence.

The Bill seeks to give effect to the above objects on the lines of similar provisions obtaining in other States like Andhra Pradesh, Madras and Mysore.

Since no expenditure is involved no financial memorandum is necessary.

The Administrator has recommended the introduction and consideration of the Bill under section 23 of the Government of Union Territories Act, 1963.

Panjim,
January 25, 1966.

TONY FERNANDES
Minister for Law.

ASSEMBLY HALL, P. B. VENKATASUBRAMANIAN
Panjim, Secretary to the Legislative Assembly
February 1, 1966. of Goa, Daman and Diu.